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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,892	08/18/2003	Raymond V. Calvesio	RA-5621	3356

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EXAMINER
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WEBB, JAMISUE A

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/642,892

Applicant(s)

CALVESIO ET AL.

Examiner

Jamisue A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. Claims 1, 2, and 5-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis for this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the “progress of science and the useful arts” (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use or advance the technological arts.

Mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process.

In the present case, the applicant has added the limitation “employing the data processing system to enroll a traveler” but this limitation is merely a trivial use of a data processor. The data (enrollment) that is being collected by the processor, is not further used in the claim, and not further manipulated in the process. Therefore the added limitation is merely a nominal use of a computer. The examiner suggest adding into the claim what data is actually being collected at

the time with enrollment, and to add into the claims how this data is further accessed and manipulated further down in the process, for example in the check-in process.

Therefore, In the present case, claims 1, 2 and 5-12 only recite an abstract idea. The recited steps of merely utilizing an automated check-in process, does not apply, involve, use or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pen and paper. The word automated is only a nominal recitation of the term and the claims do not recite any structure in the claims that lends weight to how the check-in process is automatic. Automated merely means that it is done without further instruction, it does not require the use of a computer. These steps only constitute an idea of how to utilize an automated check-in process for travelers crossing an international border.

Additionally, for a claimed invention to be statutory, the claimed must produce a useful, concrete, and tangible result. In the present case, the claimed invention produces a method for allowing travelers to cross international borders using a check-in process (i.e., useful and tangible).

Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claims 1, 2, and 5-22 are deemed to be directed to non-statutory subject matter.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Sehr (6,085,976).

4. With respect to Claims 1 and 31: Sehr discloses a method of using a data processing system for processing travelers (see abstract) that comprises the steps of:

a. Prior to the time of travel, employing the data processing system to enroll a traveler to utilize an automated check in process, Sehr discloses that a user receives a passenger card, where the passenger card has stored personal information in the card, including ticketing information as well as address and biometrics information (See Column 2, lines 63-67, Column 3, lines 57-67, Column 4, lines 44-53 and Column 5, lines 29-32). The examiner considers this to be enrolling the passenger due to the fact that the user must first register the information in the card, and receive the card before use, therefore enrolling in the system, which uses the card for ticketing and other purposes.

b. At the time of travel, utilizing the automated check-in process to complete activities necessary to enable an international border crossing (Column 11, lines 31-59, Column 23, lines 21-26 and Column 35, lines 57-62).

5. With respect to Claims 2-5, 9-11, 27 and 28: Sehr discloses that background information is loaded into the passenger card. Where the background information is an electronic representation of a passport (Column 14, lines 15-27). Sehr also discloses that information on

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the card can be matched with information in other government databases (Column 11, lines 56-62 and Column 32, lines 1-18 and 44-47)

6. With respect to Claims 6-8, and 26: See Column 17, lines 43-67, Column 20, lines 47-57, and Column 13, lines 4-11)

7. With respect to Claim 12: See Column 8, lines 3-58.

8. With respect to Claims 13 and 14: Sehr discloses that there is a dialogue between the check-in station and the passenger (Column 32, lines 61-63) and states that forms are filled out by the passengers where the passenger signs a signature pad (Column 41, lines 27-35). The examiner considers this to be a form of a questionnaire, due to the fact that the form has pre-printed information, that the passenger has to fill out, or answer.

9. With respect to Claim 15: See Column 24, lines 19-53 and Column 34, line 37-38.

10. With respect to Claims 16 and 25: See Sehr, Column 7, lines 25-64. Sehr discloses a travel center to be a self-service machine in such places as airports, railroad stations and travel agencies. The examiner considers this to be a form of a kiosk.

11. With respect to Claims 17-20, 24, 29, 30 and 32: See Column 41, line 36 to Column 42, line 42.

12. With respect to Claim 21: See Column 4, lines 44-53

13. With respect to Claim 22: See Abstract, and Column 4, lines 26-42.

***Response to Arguments***

14. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

15. With respect to Applicant arguments that Sehr does not disclose an automated check-in process: Applicant has also argued that Sehr discloses the control module to capture information and compare the information to what is stored for the passenger (which is an automated process), but applicant argues that this must be done in addition to the manual verification, therefore the process is not automated. As stated by the applicant Sehr discloses that the above check in operations cannot rely solely on manual verification on the day of travel, therefore disclosing the need for other automated verification procedures. The claims that are pending do not exclude any part of the check-in procedure being a manual verification. The term "automated" does not necessarily mean that the whole process is done without human intervention. Sehr specifically discloses the use of passenger stations with monitor and control access to particular areas, and that the stations are automated kiosks placed in strategic locations (See Column 11), therefore it is the examiner's position that Sehr does disclose an automated check-in procedure. Furthermore, as indicated in the rejection, Sehr discloses that many of the manual processes can be automated. Therefore rejections stand as stated above.


***Conclusion***

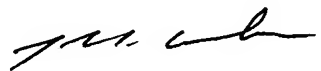
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (571) 272-6811. The examiner can normally be reached on M-F (7:30 - 4:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jamsue Webb



JOHN G. WEISS

SENIOR PATENT EXAMINER

10/17/2000